



WESTFIELD-WASHINGTON

BOARD OF ZONING APPEALS

December 15, 2009

0912-VS-11

Exhibit 1

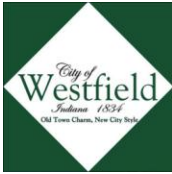
PETITION NUMBER:	0912-VS-11
SUBJECT SITE ADDRESS:	17531 Spruce Lane
APPELLANT:	Brad & Lori Hutson
REQUEST:	<p>The Appellant is requesting Variances of Standard from the Westfield-Washington Zoning Ordinance for the following:</p> <ol style="list-style-type: none">1. (WC 16.04.030, B4) to reduce the minimum lot area from 3 acres to 1.2 acres;2. (WC 16.04.030, B5) to reduce the minimum lot frontage from 250 feet to 0 feet, and;3. (WC 16.04.030, B6a) to reduce the minimum front yard setback from 80 feet to 46 feet.
CURRENT ZONING:	AG-SF1
CURRENT LAND USE:	Single-Family Residential
APPROXIMATE ACREAGE:	1.2 acres
RELATED CASES:	91-V-3 0912-VS-12
EXHIBITS:	<ol style="list-style-type: none">1. Staff Report2. Aerial Location Map3. Property Card4. 1974 Aerial Photograph5. 1985 Aerial Photograph6. Letter of Grant (91-V-3)7. Appellant's Application and Plans
STAFF REVIEWER:	Kevin M. Todd, AICP

PETITION HISTORY

This variance request will be heard at the December 15, 2009 Board of Zoning Appeals (the "BZA") meeting.

PROPERTY DESCRIPTIONS

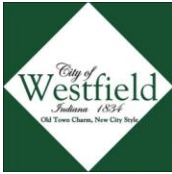
- "Original Property" – 9.7 acres; located at the southern terminus of the private drive commonly known as Spruce Lane. The property does not have any road frontage.
- "Large Property" – 8.5 acres; resulting from a split of the Original Property. This property has a mobile home. The property's address is 17529 Spruce Lane.



- “Small Property” – 1.2 acres; located as an island within the Large Property and was created as a result of a split of the Original Property. This property has a traditional single-family home and accessory structures. The property’s address is 17531 Spruce Lane.

PROPERTY HISTORY

- **1974** (see Exhibit 4 for 1974 Aerial Photograph)
 - The Original Property exists, including one single-family structure.
- **1977**
 - Zoning enacted in Westfield-Washington Township.
 - The Original Property exists as described above, with the addition of a second residential structure on the property (the mobile home).
 - Enactment of zoning ordinances results in the status of “Legally Established, Non-Conforming” applying to the Original Property in two (2) ways:
 - Legally Established, Non-Conforming Lot (non-conforming aspect is no road frontage).
 - Legally Established, Non-Conforming Use (non-conforming aspect is two (2) residences on one (1) property).
- **1977-1985** (see Exhibit 5 for 1985 Aerial Photograph)
 - Original Property is split, creating the Large Property and the Small Property
 - Split resolves Non-Conforming Use issue – each residential structure is on a single lot after the split. Use of both properties conforms to the zoning ordinance standards.
 - Split creates two (2) illegal lots that do not conform to the development standards (Minimum Road Frontage for both properties, Minimum Lot Size for the Small Property, and Front Yard Setback encroachment for both properties). Both lots do not conform to the zoning ordinance standards.
- **1991**
 - Approved variance resolves development standard issues (the “1991 Variance”) (91-V-3; see Exhibit 6)
 - Condition placed on the approval that “the mobile home be used only by the current resident, and when that ends, the mobile home will be removed.” The resident referred to in the 1991 Variance was the Appellant’s grandmother.
 - After variance approval, both lots conform to the zoning ordinance standards.
- **2009**
 - Grandmother does not live in mobile home, violating the condition of approval for the 1991 Variance.
 - Status of both properties:
 - Use conforms to the zoning ordinance standards.



- Lots do not conform to the zoning ordinance standards.
- The Appellant wishes to add to the residential structure on the Small Property and is currently seeking to bring both properties back into compliance with applicable zoning standards, including a further reduction of the front yard setback requirement needed in order to construct the residential building addition on the Small Property.

ANALYSIS

Minimum Lot Area & Minimum Lot Frontage on Road

These two requirements address the size and configuration of a lot. The Small Property is located in the AG-SF1 District, which requires a minimum of three (3) acres and two hundred fifty (250) feet of road frontage. Reducing the Small Property's Minimum Lot Area to 1.2 acres and Minimum Frontage on Road to zero (0) feet would bring the lot into compliance and would re-establish what was conditionally approved by the 1991 Variance.

Front Yard Setback

The Small Property does not have a front yard, as defined by the Westfield-Washington Zoning Ordinance, because it does not have road frontage. However, for the purpose of applying reasonable development standards to a non-conforming lot, City Staff has determined that the northern property line will function as the front lot line in this instance. The existing residential structure is approximately seventy (70) feet from the northern property line, encroaching the front yard setback requirement by ten (10) feet. The proposed room addition would encroach an additional twenty-four (24) feet into the front yard, making the room addition forty-six (46) feet from the established front property line.

Comprehensive Plan

The Westfield-Washington Comprehensive Plan identifies State Road 32 as an employment-generating corridor. The Small Property is residentially used and does not offer employment opportunities as proposed. Allowing an increase in non-conformity by encroaching the front yard by twenty-four (24) additional feet for residential purposes does not help the community achieve its vision of having a corridor of employment uses along State Road 32. The proposed room addition would likely add value to the residential property, which would in-turn increase the cost to redevelop the property for a use that would be consistent with the Comprehensive Plan.

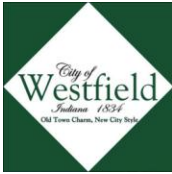
PROCEDURAL

A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Ind. Code 36-7-4-918.5 only upon a determination in writing that:

STANDARDS FOR VARIANCE REQUEST

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

Finding: It is unlikely that approving the minimum lot size and minimum road frontage



variances would be injurious to the public health, safety, morals, and general welfare of the community. However, it is possible that approving the requested front yard setback variance would be injurious to the public health, safety, morals, and general welfare of the community. Approving the front yard setback variance would allow a residential room addition to the Small Property, adding value to a non-conforming property. This would increase the cost to redevelop the property for uses that are consistent with the Comprehensive Plan. Higher land values create greater costs for redevelopment opportunities, which would likely impede redevelopment.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

Finding: It is unlikely that approving the requested variances would have an adverse impact on the use and value of adjacent property. The adjacent property is owned by the Appellant and is also used residentially. Improvements to residential property in the manner proposed are likely to have a neutral or positive effect on the value of neighboring residential property.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property:

Finding: It is likely that strict adherence to the zoning ordinance for the minimum lot size and minimum road frontage requirements would result in a practical difficulty in the use of the Small Property. It is also likely that meeting the minimum front yard setback requirement for the existing residential structure would result in a practical difficulty. However, it is unlikely that there is a practical difficulty in allowing further encroachment of the front yard setback for the Room Addition, because of the impediment it would likely cause for redevelopment opportunities.

RECOMMENDATION

Approve this request with the following condition:

1. That the minimum front yard setback requirement (WC 16.04.030, B6a) be reduced only to the extent that it is being encroached upon today. This would allow the continued use and enjoyment of the property as it currently exists. Specifically, this would reduce the setback from eighty (80) feet to seventy (70) feet.

KMT